Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT E. MEADE,

Petitioner,

v.

DECISIONS OF THE ORPHANS' COURT FOR
ANNE ARUNDEL COUNTY, et al.

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF MARYLAND

PETITION FOR WRIT OF CERTIORARI

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25 pp

QUESTIONS PRESENTED

Whether the Orphans' Court of Maryland for Anne Arundel County abused its discretion in continuing with the Petitioner's case when the Petitioner's case was outside their jurisdiction?

Whether the Orphans' Court of Maryland for Anne Arundel County erred in allowing the Successor Personal Representative, whose appointment the Petitioner had appealed, continue administering the estate and erred in awarding her attorney, Walter S. B. Childs, attorney fees?

Whether the Orphans' Court of Maryland for Anne Arundel County abused its discretion in denying the Petitioner his right of removing his case guaranteed by the Constitution?

PARTIES TO THE PROCEEDING

The parties to the direct appeal of Petition No. 358 and Petition No. 412 from the Orphans' Court of Maryland for Anne Arundel County to the Court of Appeals of Maryland, were the Petitioner, Robert E. Meade, and the attorney, Walter S. B. Childs, who represents all the Respondents.

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PETITION FOR WRIT OF CERTIORARI

The Petitioner, Robert E. Meade, respectfully requests that a writ of certiorari be issued to review the denial of the Petition No. 412 and the denial of the Petition No. 358 both of which were brought separately before the Court of Appeals of Maryland. These two Petitions are now being consolidated by the Petitioner for review by the Supreme Court of the United States. The issues and subject matter are similar but the date of the decisions are different yet consolidation is necessary for simplicity of filing and for efficiency of cost to the Petitioner.

OPINIONS BELOW

The Petitioner, Robert E. Meade, filed direct appeals and stays of the decisions, judgments, and orders of the Orphans' Court of Maryland for Anne Arundel County to the Court of Appeals of Maryland. The Order of Court by the Orphans' Court dated July 23, 2002 (App. F) was filed as an appeal by Petition for Writ of Certiorari, Petition No. 358 to the Court of Appeals of Maryland. The Order by the Orphans' Court dated August 6, 2002 (App. E) was filed as an appeal by Petition for Writ of Certiorari, Petition No. 412 to the Court of Appeals of Maryland. The Court of Appeals of Maryland issued Orders denying the Petitions for Writ of Certiorari, Petition No. 412 and Petition No. 358. (App. C, D) The Petitioner filed separate Motions for Reconsideration, pursuant to Maryland Rule 8-605 for Petition No. 412 and for Petition No. 358. The Court of Appeals of Maryland issued Orders denying the separate Motions for Reconsideration of Petition No. 412 and Petition No. 358. (App. A, B)

JURISDICTION

The reconsideration of the Order denying the Petition for Writ of Certiorari, Petition No. 412, was dated January 10, 2003 and the reconsideration of the Order denying the Petition for Writ of Certiorari, Petition No. 358 was dated December 23, 2002. The Order of the Court of Appeals of Maryland denying the Petition No. 412 was dated November 12, 2002 and the Order of the Court of Appeals of Maryland denying the Petition No. 358 was dated October 10, 2002. The jurisdiction of the United States Supreme Court to review these Orders is invoked under 28 U.S.C. § 1257(a).

STATEMENT OF THE CASE

This is an estate case which has been handled unlike other estate cases. Helen V. Meade died suddenly from injuries she sustained in an automobile accident. In her last will and testament, she left all her estate to her two sons, Robert E. Meade and Roger K. Meade. Having lived and taken care of his mother, Robert E. Meade, the Petitioner, had stronger tides with his mother than did Roger K. Meade. The last will and testament was filed in the Orphans' Court of Maryland for Anne Arundel County since the decedent lived in Anne Arundel County. Helen V. Meade named Juanita Hundley, who was one of several siblings of her large family, as the Personal Representative of her estate. The Petitioner was forced to file objections to her appointment since she was allowing her attorney, Thomas J. Aversa, Jr., to side with the other heir, Roger K. Meade and his attorney, Joel L. Katz. The Personal Representative resigned because of the treatment she received from both Roger K. Meade and his attorney, Joel L. Katz. Without holding a hearing or allowing the Petitioner to propose his own Successor Personal Representative, the Orphans' Court

of Maryland for Anne Arundel County appointed Patricia A. Miller, Esquire, as the Successor Personal Representative. Patricia A. Miller, Esquire, was proposed by Joel L. Katz. The Petitioner objected to her appointment and appealed the Order accepting the resignation of the Personal Representative, Juanita Hundley, and appointing Patricia A. Miller, Esquire, as the Successor Personal Representative.

On noticing the obvious bias of the Orphans' Court for Anne Arundel County toward the other heir, his attorney, the Successor Personal Representative and her attorney, Walter S. B. Childs and the prejudice against the Petitioner, the Petitioner filed a Motion for Removal which was denied by the Orphans' Court. The denial of this Motion was appealed by the Petitioner.

The Petitioner has appealed all the decisions, judgements, and orders of the Orphans' Court of Maryland for Anne Arundel County. However, the Orphans' Court for Anne Arundel County continues to hold hearings and make decisions without jurisdiction. The Petition for Writ of Certiorari, No. 358 and the Petition for Writ of Certiorari, No. 412, are two such Orders issued by the Orphans' Court for Anne Arundel County without jurisdiction since the appellate courts acquired jurisdiction immediately upon the filing of the two appeals, which were filed timely by the Petitioner.

Patricia A. Miller, Esquire, Successor Personal Representative and her attorney, Walter S. B. Childs, continue to act without authority and in the process of litigating the appeal of their appointment, are evaporating the estate funds through large legal fees which are being used for defending themselves against their removal by the Petitioner. The Petition No. 358 is comprised of the Order which allowed the Successor Personal Representative, Patricia A. Miller, Esquire, to force the former Personal Representative, Juanita Hundley, to amend her third and final administration account to appease the Successor Personal Representative and her attorney, Walter S. B. Childs, even though the amended account still remained inaccurate.

REASONS FOR GRANTING THE PETITION

The Petitioner files his Petition to the Supreme Court of the United States within the required ninety (90) days and his case presents an issue which is appropriate for review by this Court.

The Supreme Court has jurisdiction to issue a writ of certiorari in this matter. The Petitioner's case is a case involving constitutional principles. Therefore, review by this Court is appropriate under 28 U.S.C. § 1257 (a) that allows this Court to review "{f}inal judgments or decrees rendered by the highest court of the State in which a decision could be had...where any title, right, privilege, or immunity is specially set up or claimed under the Constitution".

The Orphans' Court of Maryland for Anne Arundel County tried to force the Petitioner to let the Successor Personal Representative finish administering the estate and probate the estate. The Supreme Court should review the Petitioner's case in light of the structural and procedural errors of the Orphans' Court of Maryland for Anne Arundel County. Their past errors have been so gross and palpable, so as to make their whole proceedings in this estate null. For the sake of the Successor Personal Representative and her attorney, Walter S. B. Childs, the Orphans' Court has decided to blind themselves to these errors and not correct them.

From the beginning, the Orphans' Court has proceeded in a manner unlike other probate courts that have limited jurisdiction. The Maryland Code, Article 93, Section 271, restricts the powers and authority of the Orphans' Court, clearly stating it "shall not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred by law". Throughout this estate case, the Orphans' Court of Maryland for Anne Arundel County has lacked jurisdiction. "The Orphans' Court does not have jurisdiction to determine questions of title to property, except where a person interested in the estate charges the administrator with concealing or having in his hands

property belonging to the estate, which he has omitted to return in the inventory of list of debts". Gibson v. Cook, 62 Md. 256 and "The Orphans' Court has no jurisdiction as between an administrator and a third person claiming title to the property". Fowler v. Brady, 110 Md. 204, 73 A. 15 (1909) "We do not find anywhere that it is clothed with jurisdiction to try questions of title to personalty" Levering v. Levering, 64 Md. 410 Yet, the Orphans' Court made decisions, judgments, and orders, which were out of their authority.

The Petitioner filed a Motion for Removal under Maryland Rule 2-505(a), exercising his right to remove his case guaranteed by the Maryland Constitution, Article IV § 8 so as to guarantee impartial administration of justice. The Petitioner presented proof that he cannot have a fair and impartial hearing in the Orphans' Court because of its bias consistently shown towards the Successor Personal Representative and her attorney, Walter S. B. Childs, who were assigned by the Orphans' Court for the purpose of protecting the interests of the other heir, Roger K. Meade.

> "The due process clause of the Fifth Amendment entitles a person to an impartial and disinterested tribunal in both civil and criminal cases, and such requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process-the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decision making process". Holt v. Virginia, 381 U.S. 131, 85 S Ct. 1375

Even though the Petitioner presented proof that he cannot receive an impartial hearing, the Orphans' Court unjustly denied his Motions for Removal and erred in refusing to order the removal of his case.

> "The appellant having filed his suggestion in the manner and form prescribed by the Constitution and Acts of Assembly, the court below erred in refusing to order the removal, and the subsequent proceedings were "coram non judice" "That the provisions of Art

> 10 of the Constitution, upon the filing of the appellant's suggestion for removal, the court below was deprived of all jurisdiction over the suit, except the power to designate to which adjoining county it should be removed; and that the judgment subsequently rendered by the court, being without lawful authority must be reversed". Griffin v. Leslie, 20 Md. 15

The judge's main procedural function is to guarantee a "fair trial" not to settle cases or close estates. By trying to force the Petitioner to accept the self interest dealings of the Respondents and letting them administer the estate, the Courts became bias towards them and prejudice against the Petitioner. The court system is designed to guarantee just trials, which require the impartiality of the trial judge. We must see that lawyers, such as Walter S. B. Childs, do not influence the court systems The public interest is to see that the court system is not persuaded by either party in a litigation.

The Petitioner appealed the decisions, judgments, and orders of the Orphans' Court and despite these appeals, the Orphans' Court proceeded as if no appeal had been filed. The Orphans' Court continued issuing decisions, judgments, and orders which the Petitioner appealed and the Petitioner has a right to be heard on all matters appealed and to ask for a reversal and a decree in his favor. The Orphans' Court has denied the Petitioner his right to appeal and his right of the appeal process.

Despite, the Orphans' Court lack of jurisdiction, the Orphans' Court continued holding hearings and continued issuing decisions, judgments, and orders. Under the Annotated Code of Maryland, Courts and Judicial Proceedings § 12-301, "the lower court lacks jurisdiction to take any further action in the case with respect to the subject matter of the appeal until the receipt of the mandate of the appellate court, after the appeal has been heard and decided". The Orphans' Court had no more power to declare and consider the administration accounts or attorneys fee. Having appealed the appointment of the Successor Personal

Representative by the Orphans' Court, the appellate court should find that "Where orphans' court erroneously refused letters of administration issued to decedent's sister, order authorizing administratrix to pay out of the estate a counsel fee for upholding her right to administer estate was also erroneous". Sullivan v. Doyle, 1949, 67 A.2d 246, 193 Md. 41 In awarding attorney fees, the Orphans' Court of Maryland for Anne Arundel County did not abide to Maryland statutes.

> "Where orphans' court, in allowing an interim fee to counsel for personal representative, simply did not take into account compensation of personal representative, as required by statute, so that there was no rational standard by which reasonableness of amounts of fees allowed or to be allowed could be tested nor necessity or propriety of an allocation between estate and residuary legatee determined, case would be remanded, without affirmance or reversal, for reconsideration in light of statuatory requirements. Code 1957, art. 93, § 7-602 (c). Wright v. Nuttle, 1973, 298 A. 2d 389, 267 Md. 698

No court can act when the subject matters are out of its jurisdiction and any action taken therefore, would be void. The actions the Orphans' Court of Maryland for Anne Arundel County are important not only to the Petitioner but others whose relative dies and has a last will and testament and with the influence of the attorneys, the Orphans' Court allow them to determine how the estate is to be divided rather than what is clearly written in the decedent's last will and testament. "When a question was important and recurring, Supreme Court would grant certiorari to resolve it". Glus v. Brooklyn Eastern Dist. Terminal, 79 S Ct. 760, 359 U.S. 231, 3 L. Ed 2d 770

The Supreme Court must evaluate the role of the lower court in the Petitioner's estate case and decide some important issues. Does a probate court have the authority to force an administration of an estate on its own terms, not taking into account the Petitioner appealing the Order

appointing a Successor Personal Representative, which is the principle player in administering a last will and testament? "When we allow the desire to reduce Court congestion to justify the sacrifice of substantial rights of the litigants in cases like this, we attempt to promote speed in administration, which is desirable, at the expense of justice, which is indispensable to any Court system worthy of its name". Link v. Wabash Railroad Co., 370 U.S. 626.

The Petitioner sought out to satisfy the wishes of his late mother, which are clearly written in her last will and testament, in spite of the Respondents strong resistance. The Orphans' Court allowed the Successor Personal Representative to continue to settle the estate without authority. This was a manifest error. The Petitioner contested to Patricia A. Miller, Esquire, being appointed the Successor Personal Representative and appealed the Order appointing her the Successor Personal Representative. "The authority of a representative is suspended, pending the appeal and he or she is not authorized to proceed with the administration even though he or she has given an appeal bond". Succession of Esteves, 183 La 274, 163 So. 99 (1935) The Petitioner contends that the appellate court,

> "relying on Estate of Hultin will find "that after the filing of the notice of appeal all steps taken by the administratrix are without authority since the filing of an appeal suspended her powers and stayed proceedings in the court below". The court, therefore, disallowed the administratrix any commissions for her services or any fees for her attorneys for services performed by either after the filing of the notice of appeal challenging her appointment". Estate of Gibson, 233 C. A.2d 125, 43 Cal. Rptr. 302

The Supreme Court must evaluate the unprecedented jurisdiction that the Orphans' Court of Maryland for Anne Arundel County have had in the estate case of Helen V. Meade. The Courts have sought out to force the Petitioner to let the Successor Personal Representative administer and close the estate not according to the decedent's last will and

testament but according to the desires of the Successor Personal Representative and her attorney, Walter S. B. Childs, siding with the other heir and his attorney, so that all of them could receive all the estate.

The Supreme Court should find as did the court in Mitchell v. Iowa Cab Co., 31 A.D. 2d 519, 294 N.Y.S. 2d 749 "The courts efforts should not serve as a lever to exert undue process on litigants to oblige them to settle their controversies without their day in court".

The Petitioner is asking the Supreme Court of the United States to review the actions taken by the Orphans' Court of Maryland for Anne Arundel County, which were actions exclusively for a court of appellate jurisdiction. This case should be used as a precedent of where the Orphans' Court should be sanctioned for not abiding to the appellate rules. The insistence of the Orphans' Court of Maryland for Anne Arundel County to continue with a case which is no longer in its jurisdiction is a deep interest to all litigants in the inferior courts of the United States.

CONCLUSION

For all the foregoing reasons, this Petition for Writ of Certiorari should be granted and a Writ of Certiorari should be issued to the Petitioner.

Respectfully submitted,

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(202) 468-1823

APPENDIX

ROBERT E. MEADE	*	IN THE
		COURT OF APPEALS
v.	*	
		OF MARYLAND
DECISIONS OF THE ORPHANS' COURT FOR ANNE ARUNDEL COUNTY, et al.	*	Petition Docket No. 412 September Term, 2002
	*	
	*	(No. 45063 Circuit Court for Anne Arundel County) Should be the **Orphans Court**

O R D E R

The Court having considered the motion for reconsideration, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the motion be, and it is hereby, denied.

/s/ Robert M. Bell
Chief Judge

DATE: January 10, 2003

ROBERT E. MEADE * IN THE

COURT OF APPEALS

v. *

OF MARYLAND

DECISIONS OF THE ORPHANS' COURT FOR ANNE ARUNDEL COUNTY, et al. * Petition Docket No. 358 September Term, 2002

*

(No. 45063 Circuit Court * for Anne Arundel County) Should be the **Orphans Court**

O R D E R

The Court having considered the motion for reconsideration, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the motion be, and it is hereby, denied.

/s/ Robert M. Bell
Chief Judge

DATE: December 23, 2002

C

ROBERT E. MEADE * IN THE

COURT OF APPEALS

v. *

OF MARYLAND

DECISIONS OF THE ORPHANS' COURT FOR ANNE ARUNDEL COUNTY, et al. * Petition Docket No. 412 September Term, 2002

*

(No. 45063, Circuit Court for Anne Arundel County) Should be the **Orphans' Court** for Anne Arundel County

O R D E R

Upon consideration of the petition for a writ of certiorari to the Circuit Court for Anne Arundel County, (should be the **Orphans' Court** for Anne Arundel County) in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell
Chief Judge

DATE: November 12, 2002

D

ROBERT E. MEADE * IN THE

COURT OF APPEALS

v. *

OF MARYLAND

DECISIONS OF THE ORPHANS' COURT FOR ANNE ARUNDEL COUNTY, et al. * Petition Docket No. 358 September Term, 2002

*

(No. 45063, Circuit Court for Anne Arundel County) Should be the **Orphans' Court** for Anne Arundel County

O R D E R

Upon consideration of the petition for a writ of certiorari to the Circuit Court for Anne Arundel County, (should be the **Orphans' Court** for Anne Arundel County) and the request for stay filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition and request for stay be, and they are hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell
Chief Judge

DATE: October 10, 2002

E

IN THE MATTER OF * BEFORE THE

THE ESTATE OF * ORPHANS' COURT

HELEN V. MEADE * FOR ANNE ARUNDEL

* COUNTY

* NO. 45063

* * * * * * * * *

ORDER

Upon the foregoing First Interim Verified Petition for Allowance of Counsel Fees, it is this ~~6th~~ day of August, 2002, pursuant to Maryland Rule 6-416 (c)

ORDERED: by the Orphans' Court of Anne Arundel County, that Patricia A. Miller Successor Personal Representative of the Estate of Helen V. Meade be and she is hereby authorized to pay unto Walter S. B. Childs, the amount of $ 42, 411.78 ---------- as counsel fees for legal services rendered through the period ending May 31, 2002, and it is further

/s/

/s/

/s/

Judges

cc: Walter S. B. Childs, Esq.
145 Main Street
Annapolis, MD 21401

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All Interested Persons

F

IN THE MATTER OF	* IN THE
THE ESTATE OF	* ORPHANS' COURT
HELEN V. MEADE	* FOR
	* ANNE ARUNDEL COUNTY
	* ESTATE NO. 45063
	*

* * * * * * * * *

ORDER OF COURT

The Amended Third and Final Administration Account of Juanita Hundley, Personal Representative of the Estate of Helen V. Meade, Deceased, having been read and duly considered, it is this 23rd day of July, 2002, by the Orphan's Court for Anne Arundel County,

ORDERED: That the Amended Third and Final Administration Account of Juanita Hundley, Personal Representative of the Estate of Helen V. Meade, Deceased, is hereby approved; and

IT IS FURTHER ORDERED: Pursuant to Section 10-101, Estates and Trust Article, Annotated Code of Maryland that the Court terminate the appointment of the Personal Representative, Juanita Hundley and she is hereby discharged and the bond filed herein is hereby released.

All subject to exceptions being filed within twenty (20) days from the date of this Order, at which time this Order shall become final.

/s/

/s/

Judges